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ABSTRACT

Five papers presented at two academic seminars are collected in this document which deals with the survival of American Indian tribes, focusing on language maintenance, tribal government, and intergovernmental relations. Robert Dumont and David Kaudy note the remarkable way in which the written English word has been incorporated into the core of tribal life and point out language issues that underlie the complex federal-Indian legal relationship. Robert Thomas discusses the accelerated rate of tribal language loss since 1961 and explains the grave implications of that loss for the survival of Indians as tribal people. In a second paper Thomas provides an historical overview of tribal government from aboriginal to modern times and urges that tribal leaders, in spite of today's materialism, concern themselves with Indian dreams and traditional values. A paper prepared by Native American Educational Services, Inc. (NAES) College instructors Rose Barstow, Margaret Boney, and Lola Hill at the Chicago study site documents the existence of tribally specific patterns of Indian English and the emergence of urban Indian speech communities. David Beaulieu describes positive aspects of Indian education in Minnesota, where tribal, state, and federal governments have cooperated to create an exemplary program. The document also contains an introduction by Terry Straus of NAES College and excerpts from the Declaration of Indian Purpose prepared for the American Indian Chicago Conference held in 1961. (JHZ)

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Introduction

Terry Straus, Editor
College Faculty for Community Studies
NAES College, Chicago

Termination threatened the legal and political status of American Indian tribes in 1961 when Indian people from various tribes and communities met at the American Indian Chicago Conference. Twenty-five years later, though considerable progress has been made, the issues outlined in the Declaration of Indian Purpose developed at that conference are still current. Termination is no longer explicitly embraced and assimilation has become a bad word, but the survival of tribes in the 21st century remains questionable. Critical issues facing Indian tribes in the 21st century are the focus of various activities sponsored by NAES (Native American Educational Services, Inc.) College, looking forward to the next century as it commemorates the American Indian Chicago Conference now a quarter of a century old.

The papers which follow are those formally presented at two academic seminars, the first involving only participants affiliated with NAES, the second reaching out beyond the college and its various campuses. Language loss was the topic of the first seminar. As Robert V. Dumont, Jr. (Sioux) and David Kaudy point out in the first paper, language issues must be seen to underlie certain significant problems in tribal government at Ft. Peck and elsewhere. Tribal government and intergovernmental relations became the theme of the second seminar.

The major paper in the first seminar was given by NAES Board of Trustees member Robert K. Thomas (Cherokee). Thomas notes that of the various needs identified in the Declaration of Indian Purpose, cultural continuity has been the least well addressed. Language loss has accelerated since 1961 and this has grave implications for the survival of Indians as tribal people. His insistence that we have only five years to reverse this trend, evoked a lively response (available on audio cassette) from NAES College Bilingual Education Program instructors Rose Barstow (Chippewa), Margaret Boney (Oneida), and Lola Hill (Ojibwe), who discussed the role of bilingual education programs and the possibility of maintaining Indian, if not tribal, identity in the face of tribal language loss. The existence of tribally specific patterns of Indian English and the emergence of urban Indian speech communities are discussed in a paper prepared by NAES students at the Chicago study site.

In the decades following the American Indian Chicago Conference, while other minority peoples sought integration and civil rights as individual citizens, Indian people took to the courts to protect and affirm the special rights of tribes and to establish the jurisdiction of those tribes. The legal and political struggle continues today and is fundamental to the survival of tribes as political entities. The issues are complex and compelling, the task enormous. Tribal governments face internal problems, as discussed by both Dumont and Thomas. Inter-governmental relations among tribal, local, state, and federal governments have also been problematic: tribal and state governments have generally been adversaries. Rethinking, restructuring these relations is one of the important tasks facing Indian leaders today.

David Beaulieu (Chippewa) provides a hopeful note by describing positive aspects of state-tribal relations in Minnesota. His paper demonstrates the value of cooperative inter-governmental relations and the advantage to urban Indian communities of enlightened state government. It must, however, be set in its proper political and historical context, recalling that Public Law 280 (which accounts for much of the state responsibility in Minnesota) began as part of the termination effort.

Ada Deer (Menominee), whose oral presentation is available on audio cassette, represented a national Indian perspective. She argued enthusiastically for a change in attitude in Indian tribes and communities towards federal Indian policy, legislation and administration. Indian people, she insisted, must cease merely to re-act to federal initiative: they must become pro-active, shaping and directing federal Indian policy themselves.

The goal of cultural continuity is supported by but not accomplished through legal battles. Sovereignty and self-determination have different sources, different foci. The possibility and the necessity for integrating efforts in these directions are both demonstrated in the Dumont-Kaudy paper with which we begin.

Excerpts from Declaration of Indian Purpose
American Indian Chicago Conference, 1961

Introduction

The American Indian Chicago Conference originated with Dr. Sol Tax, professor of Anthropology, University of Chicago, who for many years has devoted a great amount of time to the study of North American Indians and their problems. It occurred to Dr. Tax that this was the appropriate time for Indians on a national scale to voice their opinions and desires. With promises of help from Dr. Nancy Lurie of the University of Michigan, and Robert Rietz, of the Chicago American Indian Center, he asked the University for sponsorship and sought Foundation funds.

The matter was brought to the attention of the annual convention of the National Congress of American Indians in November of 1960, with a proposal to review events which have occurred since the publication of the Meriam Report of 1928 and to bring the review up to date with recommendations for a new improved approach to Indian administration. The NCAI, in conference assembled in Denver, agreed to endorse but did not sponsor the project.

A temporary Steering Committee, composed of Indians only, recommended and held a series of state and regional meetings of Indians preparatory to the Chicago conference. Dr. Tax and his staff of the University of Chicago, acting as a coordinating agency, reproduced the data and opinions and distributed them widely to Indians and the public as the meetings progressed. As a result some 460 Indians of 90 tribes gathered at the University of Chicago where committees began to assemble Indian thinking and to prepare preliminary drafts of a statement for the consideration of the entire conference. This report is the final result and recommendation of that conference.

. . . . . .

Creed

WE BELIEVE in the inherent right of all people to retain spiritual and cultural values, and that the free exercise of these values is necessary to the development of any people. Indians exercised this inherent right to live their own lives for thousands of years before the white man came and took their lands. It is a more complex world in which Indians live today, but the Indian people who first settled the New World and built the great civilizations which only now are being dug out of the past, long ago demonstrated that they could master complexity.

WE BELIEVE that the history and development of America show that the Indian has been subjected to duress,undue influence, unwarranted pressures, and policies which have produced uncertainty, frustration, and despair. Only when the public understands these conditions and is moved to take action toward the formulation and adoption of sound and consistent policies and programs will these destroying factors be removed and the Indian resume his normal growth and make his maximum contribution to modern society.

WE BELIEVE in the future of a greater America, an America which we were first to love, where life, liberty, and the pursuit of happiness will be a reality. In such a future, with Indians and all other Americans cooperating, a cultural climate will be created in which the Indian people will grow and develop as members of a free society.

. . . . . .

Concluding Statement

To complete our Declaration, we point out that in the beginning the people of the New World, called Indians by accident of geography, were possessed of a continent and a way of life. In the course of many lifetimes, our people had adjusted to every climate and condition from the Arctic to the torrid zones. In their livelihood and family relationships, their ceremonial observances, they reflected the diversity of the physical world they occupied.

The conditions in which Indians live today reflect a world in which every basic aspect of life has been transformed. Even the physical world is no longer the controlling factor in determining where and under what conditions men may live. In region after region, Indian groups found their means of existence either totally destroyed or materially modified. Newly introduced diseases swept away or reduced regional populations. These changes were followed by major shifts in the internal life of tribe and family.

The time came when the Indian people were no longer the masters of their situation. Their lifeways survived subject to the will of a dominant sovereign power. This is said, not in the spirit of complaint; we understand that in the lives of all nations of people, there are times of plenty and times of famine. But we do speak out in a plea for understanding.

When we go before the American people, as we do in this Declaration, and ask for material assistance in developing our resources and developing our opportunities, we pose a moral problem which cannot be left unanswered. For the problem we raise affects the standing which our nation sustains before world opinion.

Our situation cannot be relieved by appropriate funds alone, though it is equally obvious that without capital investment and funded services, solutions will be delayed. Nor will the passage of time lessen the complexities which beset a people moving toward new meaning and purpose.

The answers we seek are not commodities to be purchased, neither are they evolved automatically through the passing of time.

The effort to place social adjustment on a money-time interval scale which has characterized Indian administration, has resulted in unwanted pressure and frustration.

When Indians speak of the continent they yielded, they are not referring only to the loss of some millions of acres in real estate. They have in mind that the land supported a universe of things they knew, valued, and loved.

With that continent gone, except for the few parcels they still retain, the basis of life is precariously held, but they mean to hold the scraps and parcels as earnestly as any small nation or ethnic group was ever determined to hold identity and survival.

What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In short, the Indians ask for assistance, technical and financial, for the time needed, however long that may be, to regain in the America of the space age some measure of the adjustment they enjoyed as the original possessors of their native land.

December 22, 1986

To: Friends of Indian Higher Education

From: NAES College Symposium Planning Committee

Re: Request for Response to Enclosed Papers

Twenty-five years ago, during the height of termination, Indian people from around the country gathered at the University of Chicago for the American Indian Chicago Conference. They shared tribal and individual experiences and recognized many common concerns. The Declaration of Indian Purpose developed there continues to inform and influence people today.

NAES (Native American Educational Services) College* has undertaken to organize a series of events and publications commemorating the American Indian Chicago Conference. The enclosed material includes papers from two seminars designed to lead up to an academic symposium scheduled for early June, 1987. The issues addressed in the seminars (tribal language and tribal government) were considered critical to the survival of tribes in the 21st century.

The June symposium will take up the general theme of the survival of American Indian tribes in the 21st century. Its purpose is to provide a forum for exchange between Indian academics and tribal leaders regarding the future of tribes, including their relationship to off-reservation members. The structure of symposium workshops will be determined by written responses to the enclosed papers.

Like the American Indian Chicago Conference, the 1987 symposium will be held at the University of Chicago. Also, as in the American Indian Chicago Conference, the symposium will be open to all American Indians. Unfortunately, there is no

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* NAES College is a private, accredited, B. A. degree-granting Indian college with active instructional sites in the Chicago Indian community, on the Fort Peck Reservation, (Montana) and on the Bay Mills Reservation (Michigan).

money for travel or lodging at this time. Those for whom the expense, the distance, or the timing is prohibitive can nonetheless be involved through written response.

You are asked, then, to circulate the enclosed papers and solicit written statements in response to them. Responses should incorporate specific tribal history and experience, identifying critical issues so that they may be communicated to other Indian people. The history and the experience of each tribe is unique: neither problems nor resolutions can be immediately generalized or transferred to others. The exchange and interpretation of tribal knowledge is essential not as a model, but as a stimulant.

Responses will be received and organized by the symposium planning committee during the week of March 16, 1987. The resulting document will be published and circulated, like the present preliminary papers, to tribes, tribal colleges, and Indian Studies departments throughout the country. That document will also define the fundamental concerns of the June symposium. The more responses we receive, the more useful the publication and the symposium will be for Indian people.

In order to be reviewed by the planning committee, responses must be received by March 14. In your response, please indicate whether someone from your tribe or organization will plan to attend the symposium in June.

Tribal Government and the 21st Century

Robert V. Dumont, Jr. and David Kaudy

(Both Mr. Dumont and Mr. Kaudy are members of the NAES College Faculty at the Fort Peck Reservation Study Site. Mr. Dumont is Senior Resident Faculty and Mr. Kaudy is College Faculty for Legal Studies.)

As tribes throughout the United States prepare to enter the 21st century they will be a part of what surely is to be a new world. It will be one of beginnings, the likes of which American Indian tribes have not faced previously. There will be at that time some 500 years of legal precedent which regulates the course of tribal governments' relationships with the United States and many areas within the tribe itself. This has made tribes like nations within a nation but not wholly so. It has prescribed a kind of sovereignty but one complexly restricted; it has provided a federal trusteeship to protect a tribe's money and property but in which a tribe's assets cannot or will not be ascertained; it has prescribed a tribal self-government but one that is carried out in regulated federal models; and lastly, it has prescribed economic self-sufficiency but one in which the tribal dollar as part of tribal economic systems has limited functional value in the federal formula.

Tribal governance is carried out today within this framework, and it will continue to be, becoming progressively more complex and restricting. Tribes have survived through this because they have learned not to negotiate upon the extension of good faith or the promise of equity or just compensation. Instead, they have learned to negotiate with the knowledge that their survival is a part of the market place of money and property. Each year the price of survival escalates and tribal property takes on new and increased value in the American society. Inordinately high value and a premium price is currently placed upon the right of a tribe to enter the 21st century as a tribe responsible to itself and as a tribe within American society. How that price is negotiated now and in the years to come is what is of critical concern.

It is not the purpose of this paper to examine the constraints or the value of the tribal right, but to explore generally how tribes may move into the next century. The responsibility of tribal survival rests wholly within a tribe; others may assist, which has been a historical part of tribal survival, but responsibility for the maintenance and continuance of the tribe as a people comes from within the tribe and from no others. This is a difficult but critical fact to

accept. Contemporary history after the Allotment Acts of 1862 strongly suggests that tribes survived to the present day largely through the efforts of the liberal reformer whether within government, church or private association. However, the literature rarely if ever examines how and who within the tribe negotiated and maintained their survival for themselves. As the future is examined, it is precisely this that we must know and it is within this framework that responsibility takes on meaning. From this perspective, the condition of the American society to contain, to protect and to assure an equitable place for a tribe cannot be assured and certainly not trusted.

Tribes out of their own unique histories proceed with this lesson harshly learned. Each time that they have not carefully negotiated a tribal transaction with the American society, they have not necessarily lost, but what they secured was a condition of constraint exercised through the fundamental law of the United States, but not of the tribe. It is law that over the years we have come to know as Federal Indian Law.

The law teaches that today's Indian possesses attributes of dual citizenship and forms one type of relationship with one sovereign - his tribal government - and another type of relationship with another sovereign - the federal government. History teaches that this dual sovereignty concept is neither equal nor just and is barely comprehensible. Each regulating or legislating action by either sovereign power creates restrictions or boundaries within which the other sovereign must operate to be recognized as the other power.

History further teaches that there is considerably more power over the individual Indian by the federal sovereign and a rather diffused influence exercised by the tribal government; the imbalance adversely affects the relationship to tribal government of the individual. Protection of the rights of the tribe by tribal leadership is dependent upon negotiations which are held within a framework of "dual sovereignty" which has been defined and limited by the actions of the federal sovereign. The definitions and concepts of the tribal system are severely limited and are utilized on rare occurrences. As a result, over time, the dual sovereignty concept underpinning most judicial decisions has eroded into a concept and relationship undefinable within the usual context of the federal systems and is becoming more unwieldy and unmanageable with each passing regulation and precedent.

Added to this complexity, the legal foundations regulating the tribal-federal relationships are based upon a linguistic and cultural system of which tribes have been a part only recently. When a cultural perspective is assigned to this we find that it is language, the written English word, which has caused the greatest of problems both in defining the nature of

the legal relationship and for both governments in their attempts to interpret the meanings of these into their institutions. It is a simple fact that fundamental aspects of law cannot be easily translated from one language or cultural system to another using only one language. In fact, it is a near impossibility but it is the system used historically. How then is it different?

It differs only in that tribes are now ending one of the most quiet and profound revolutions of recent history - the incorporation of the written English word into the core of tribal life. Generally, this is termed schooling and education but from a comparative societal perspective of cultures in change. It reflects on the part of a tribe the learning of English as a literate, written language and bringing that into the non-literate tribal world (in which there is no form of the literate) so that literate has meaning. Societally it is a complex process. Begun in the 1700's as a part of forced assimilation, it is now carried out in tribal schools at all levels, in tribal community colleges and schools like NAES College.

Remarkably, the introduction of the English written word to tribes was not at an elementary level but at that of fundamental law of treaties and agreements with European countries and the United States. Because the structure and form of contemporary tribal governments emerge not from tribal society but from that of the United States, their constitutions and codes of law are in English. Also, it is the medium of communication in the day-to-day transactions between a tribe, and federal and state government, cast in the framework of law or contract or memorandum of agreement binding the tribe to a course of action. Incorporation of the written word into tribal life as is now taking place means that the tribe has also acquired not simply literacy but has the capacity to control the English written word, to make it work for the interests of the tribe, to allow it to construct benefit which secures the rights of tribe as government. This function until recently has existed outside of the tribe but it now can be formed within. In some places it is put to highly skillful and effective use and in others it brings disaster. When used properly, it brings meaningful translation and interpretation. The careful and skillful construction of the precise need and requirement is formed in the agreements with the federal and state government of the private corporation.

It is not an easy and quick step and it is fraught with great difficulty. Let us provide two examples, one of crisis and the other of success from our tribe, the Fort Peck Assiniboine and Sioux. In each case the written word is critical and pivotal in resolution. In 1927 a simple but effective written constitution was enacted by the Tribe who later rejected the IRA and amended its 1927 Constitution in 1955, creating a centralized executive board to handle better the

onset of the new oil economy. The new economy precipitated extreme chaos and crisis in government, so that in 1960 the Secretary of Interior intervened and established under Secretarial powers of "ward over guardian," the 1960 Constitution under which we govern today. It is restrictive, requiring each act of the Tribal government to be approved by the Superintendent of Indian Affairs and the Secretary may reject any tribal act without appeal. Last year the Council adopted a sweeping new comprehensive set of law and order codes. A well attended hearing to publicize that code had six people and other hearings had no one. The result was that the Tribe had new tribal civic law which the majority including those in government and court did not read. Certainly they had not been tested against application. By crisis it was tested.

The Tribal election immediately following the adoption of the codes was hotly contested because the Chairman for years stepped down, naming in his party a successor. That change solidified and entrenched for the period around the election a two party system which previously had been fluid, sometimes shifting to four parties. Shortly after the new government was convened, a council member without government consent secured through the courts an order for the accounting records of a major tribal enterprise. The council through informal action secured their return from the courts which were collected by a different council member and taken to a private home. From there a council member(s) contacted on his own the Inspector General's Office of the Department of Interior and raised adequate questions about the records so that the IGO agents came to the Reservation without tribal government knowledge and secured the records taking them to regional headquarters. As these acts became known, which was in a matter of days, there resulted a constitutional crisis in which the federal government was pitted against the tribal and the Tribal government was divided into two factions with one pitted against the Chairman's Office and the Court. There were charges and counter charges of constitutional violation, fraud, impeachment, removal, pickets, guns, jailing and lawsuits. Government could not act, split in its vote and faced with having to resolve the crisis, it persisted well over six months. The problem emanated wholly from an unclear understanding of the fundamental law of the Tribe which is now in written English; resolution was in part through the negotiated writing but there has been in reality little resolution because actions and resolution are interpreted and held within the tribal mind and very little within the fundamental law written in English. The crisis in different form will return again until the literate is successfully integrated with the Tribal. It is interesting to note that in a neighboring Tribe a crisis similar in content and magnitude has occurred with comparable quasi-resolution.

Crisis is complex; the chaos has no order until it is over. Success is order, and it is precise. In 1982 the Tribe

worked closely with Senator Melcher in the enactment of the Indian Mineral Leasing Act. Under this Act, Fort Peck established the first joint venture and first wholly owned tribal oil well in sophisticated and highly profitable contractual agreements. The model was generated and regulated internally so that tribal members understood each element of the agreement. The resulting production profit and model was success internally developed and maintained. It was made by the Tribe, and for the Tribe. But who is the Tribe?

Historically, a tribe has been something greater than the sum total of its members. The term "tribe" has always been something else, something added, some sense of communality not found in other organized groups.

Because tribes exist today, they possess the right, power, and authority of self-government in the same fashion as other peoples. However, that authority of self-government, what we have come to refer to as sovereignty, is limited and restricted and continues each year to be more so. At any point the exercise of tribal authority for governance is regulated within these limitations and restrictions of what we have to call federal Indian law.

There is no such thing as "federal Indian law," but it is taught in law schools throughout this nation. It is commented upon endlessly in journals and reviews. Because it concerns a people, it carries their name before the word "law" in the same manner as "water law" or "patent law" of "tax law"." A more accurate phrase would be "European common law as applied to Tribal Governments."

But this phrase, too, would be accurate only for the years early in the nineteenth century, before the time when the U.S. Congress began to legislate in the field of Indian Affairs. After Congress legislates, the more accurate term for Federal Indian Law is "European common law as applied to Tribal Governments and as given by the Congress of another, more powerful nation."

And when the Judicial arms of this other, more powerful nation became involved in the field of Indian affairs, the most that can be said for the accuracy of the term "federal Indian law" is that it is a constantly changing statement of the policies of international law; it is subject to the winds of change, to economics, and to politics. Therefore, this field is a history of how America treats tribal governments today based upon yesterday's happenings. The analysis of tribal governments requires a study of their relationship to another nation.

"The condition of the Indian in relation to the United States is perhaps unlike that of any other two people in existence," Chief Justice Marshall wrote in 1831. He likened

their status to "a state of pupilage, their relationship to the United States resembles that of a ward to his guardian," Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 8 LEd. 25 (1813).

The foundations of federal Indian law stem from a case that failed. The Cherokee Nation sought a temporary restraining order from the U.S. Supreme Court, so that the Court would order the State of Georgia to refrain from enforcing the Georgia laws that condemned their reservation and their way of life. But the U.S. Supreme Court refused.

It cannot be determined for whose good John Marshall refused.

> If it be true that the Cherokee nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future. ID., at 184.

But the very next year Marshall changed his mind, in Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 8 L. Ed. 483 (1832). The state of Georgia could not imprison the white missionary who broke Georgia law by preaching the gospel on the Cherokee reservation without the license from the governor of Georgia. This particular Georgia law was a part of the very ones the Cherokee Nation has sought to have "TRO (Temporary Restraining Order)-ed" on their case the year before. The TRO failed, and the missionary was legally freed (after languishing in prison for a considerable time).

The Cherokee nation was not sufficiently sovereign to be a "foreign nation" nor did it have the recognized status required to bring suit against a state which legislated to violate a United States and Cherokee Nation Treaty. However, the Cherokee Nation was sufficiently sovereign so that the state could not extend its criminal laws into their reservation. The borders of the reservation determined the geographic boundaries into which the state could not reach.

Fifty years later the law changed through the case of United States v. McBratney, 104 U.S. 621, 26 L. Ed. 869 (1881). The State of Colorado contained the Ute Reservation, where McBratney murdered Casey, both white men. Unlike the white missionary who was freed from the Georgia imprisonment for preaching on the Cherokee reservation without a license, the white murderer was made to stand trial for murder on the Ute reservation. McBratney, although within the geographic boundaries of the reservation, was nonetheless within reach of the state law of Colorado. "...The State of Colorado...has acquired criminal jurisdiction over its own citizens and other

white persons throughout the whole of the territory within its limits, including the Ute Reservation..."

Is it not fortunate that Worcester preached rather than murdered? Is it only by chance that Worcester and McBratney were white? What is the difference between Georgia and Colorado? Or the Cherokee and Ute? There are no answers.

The Supreme Court determined that because these states were once territories, they were admitted as States into the Union on an equal footing with the original thirteen colonies. Therefore, their state courts have the jurisdiction to try non-Indians for state crimes committed against other non-Indians on Indian lands.

If the Court had said that tribal governments would probably have no interest in prosecuting white and non-Indian criminals, that tribal governments would not prosecute adequately or pay for the cost of incarceration, the McBratney case would make more sense. Perhaps the decision was right, but the reasoning was wrong. Rather than examination of the compacts and agreements of territories approaching statehood for clauses retaining or divesting jurisdiction in Indian country, the Court would better have served posterity by conducting an examination of the policies, interests and concerns of tribal governments.

One case in which the interest of the tribe was examined and which took the Indian viewpoint was Ex Parte Crow Dog, 109 U.S. 556, 3 S. CT. 396, 27 L. Ed. 1030 (1883). The crime was murder, committed by Crow Dog upon Spotted Tail within Indian Country.

The judge determined that tribal governments offer an internal and known code to be followed by tribal members; basic fairness also dictates that tribal governments handle the matter rather than external and unknown federal courts.

But then, two years later in 1885, Congress enacted the Major Crimes Act, 23, Stat. 385 U.S.C.A. #1153, and took for the Federal Government federal jurisdiction over seven specific crimes (later amended to fourteen). The Congressional statute was tested in United States v. Kagama, 118, U.S. 375, 6 S. CT. 1109, 30 L. Ed. 228 (1886); it involved two Indians murdering another Indian on the Hoopa Valley Reservation in California. However, the discussion concerned the limited sovereign aspect of the tribes.

> These Indian tribes are the wards of the nation. They are communities dependent on the United States. Dependent largely for their daily food. Dependent for their political rights. They owe no allegiance to the States, and receive from them no protection.

Thus, a Congressional statute taking federal jurisdiction over certain crimes at the same time took away from the tribal governments and from the states enclosing the reservation the power and jurisdiction over these crimes. The case of Williams v. Lee (358 U.S. 217, 79 S, Ct. 269, 3 L. Ed. 2nd 251, 1959) articulated best the status of tribal governments and their relation to the states: "Essentially, absent governing Acts of Congress, the question has always been whether the state action infringed on the rights of reservation Indians to make their own laws and be ruled by them". Effective determination of "what constitutes infringement" involves unibased electoral legislation, law making, policy setting and judicial decision. The most vexing of these problems are the extent of a tribes's jurisdictional powers, and the nature of its own substantive law.

It is within the ambit of a tribal government's powers to determine the nature and extent of its own sovereignty, and the extent to which that sovereignty has been altered, divested or diminished, by treaty, by law, or by Executive Policy. In 1985, National Farmers Union Insurance Co. v. Crow Tribe, 45 CCH S. CT Bull. P. No. 84-320 (1985) recognized that this examination is to take place in the tribal courts in the first instance, and that the federal courts can only later re-examine the issue after tribal court remedies have been previously exhausted. The Crow tribal courts had entered a default judgement against a state school district for damages involving a tribal member who was struck and injured by a motorcycle on state-owned school grounds within the reservation boundaries. The federal court was requested to issue a temporary restraining order against the tribal court, to prevent it from executing on the default judgement. But the State of Montana was not awarded a TRO (Temporary Restraining Order) against the tribal court; instead, the federal court said that the state's remedy should be left to the tribal court which in the first instance is to determine the extent of its own jurisdiction over non-Indians. Federal court intervention afterward will determine whether the tribal court exceeded the lawful limits of its jurisdiction. The tribal court's prime responsibility is thereafter to provide a full and complete record for scrutiny in the event appeal to federal courts is undertaken. It is the written word.

Unlike civil jurisdiction over non-Indians being granted to tribal courts, criminal jurisdiction over non-Indians has been assumed by state governments whose borders encase all reservations. The case of Oliphant v. Suquamish Indian Tribe, 435 U.S. 191, 98 S. Ct. 1011, 55 L. Ed. 2nd 209 (1978) determined that Congress has not allowed tribal governments to assume criminal jurisdiction over non-Indians who commit crimes on reservation lands against tribal members or against tribal officers. Tribal governments retain criminal jurisdiction only over their own members, and only in the areas of misdemeanors, or less serious crimes. Those specific

crimes listed in the Congressional statute require federal court prosecution; hence, the limited sovereign status of tribes encompasses: 1) No criminal jurisdiction over non-Indians, 2) Limited jurisdiction over Indians, 3) Full civic jurisdiction over both Indians and non-Indians, with an exhaustion of tribal court remedies required prior to federal appeals over non-Indians, and finally, 4) With only very limited federal appellate civic jurisdiction allowed over Indians, this being limited to habeas corpus writs.

This is the nature of federal respect for the sovereignty of tribal government; but what about state respect? What about the tribal member whose sheep are taken by a state deputy sheriff or county officer for sale for a debt owed by the tribal member? Rather than view this state court action as an infringement on tribal sovereignty, the Montana Supreme Court said that: "It is common knowledge that livestock on an Indian reservation stand in a peculiar status due to the government's policy of trying to make Indian citizens self-sufficient via livestock loans," in Kennerly v. District Court, 466 P. 2d 85, 89 (1970).

But Montana, according to the United States Supreme Court, was out of line: "Essentially, absent governing Acts of Congress, the question has always been whether the state action infringed on the right of reservation Indians to make their own laws and be ruled by them," Kennerly v. District Court, 400 U.S. 423, 91 S. Ct. 480, 27, 3 L. Ed. 2d 507 (1971), quoting from Williams v. Lee, 358 U.S. 217, 220, 79 S. Ct. 269, 271, 3 L. Ed. 2d 251, (1959).

Thus, in the realm of civic jurisdiction, tribal governments are faced with four aspects of the same question: First is the question of whether a state law infringes on the rights of tribal governments to make their own laws and be ruled by them; second, it must be determined to what extent they have retained the power to regulate the affairs of non-Indians; third is the extent of their own jurisdiction; and fourth, the nature of the insubstantive law. It is the written word.

Conclusion

This is but a part of the maze of the binding written word through which a tribe must proceed. The federal government can say as the courts did in Farmers Union Insurance v. The Crow Tribe in 1985 that a tribal court's responsibility is to provide a full and complete record for scrutiny in event of appeal to Federal court; this is the written word by the tribe. In the same year the Assistant Secretary of Indian Affairs stated that "judicial integrity" must come to tribes. He advocated federal intervention to accomplish this, but has stated that he will refrain because of the federal support of tribal self-determination.

No matter, the words are said in writing, in federal comment and law. Both the capacity of a tribe to govern and to act judicially, rest upon a "full and complete record." For tribes this is their written word in English, writ large. How then shall a tribe proceed into the 21st Century? Simply, it is to be determined by the degree that its oral tribal tradition can control the English written word to reflect the tribal, which in turn can be integrated into fundamental law.

LANGUAGE AND CULTURE:
PERSISTENCE, CHANGE AND DISSOLUTION OF TRIBAL SOCIETY
POSITION PAPER

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The Chicago American Indian Conference of 1961 culminated in a document called the Declaration of Purpose. This document was a summation of the "sense" of the Conference and was largely oriented toward influencing federal government policy. My reading of the Declaration of Purpose indicates two specific concerns and another more general concern.

The two specific concerns were self-determination and economic development, and the more general concern was the issue of cultural preservation. However, one gets the impression that the framers of the Declaration of Purpose felt that if the Indian land base was made secure and tribes were given decision-making power within a firm and lasting federal Indian framework, then Indian cultural (and social?) survival was assured. More, throughout the document there is an implicit faith that a higher educational level of Indians is essential in the solving of all these "problems."

Let me briefly evaluate these thrusts of the Declaration of Purpose, some twenty five-years later. Tribal governments have indeed achieved some degree of self-determination in the last twenty-five years. There has been no legal transfer of power from the federal government to tribes in this period, but the approval of the Secretary of Interior over the acts of tribal councils is now largely pro forma for all except very important issues. As the educational level of Indians has increased and as Indian politicians and administrators have come to share a common outlook (a common sense of problem and solutions) with federal administrators, the Department of Interior has come to trust the judgement of tribal governments.

Secondly, the federal policy of contracting services to tribal governments has given the "institution" of tribal government some clout, and has involved more local people in the political process because of now available political patronage. In some tribes, political machines have been built on this political patronage system.

There has been some modicum of economic development in the last twenty five years, particularly mineral resource development. (Presently, the competition between whites and

Indians for resources - minerals, water, land, space, clean air, etc. - is reaching a crisis point in parts of the southwest and northern plains). However, the major source of rural Indian income has come to be employment in tribal programs, and the economy of most tribes has suffered recently due to federal budget cuts over the past few years.

It is the area of cultural survival (and, perhaps, future social survival) that one sees the major problem for Indians in these days. The Chicago American Indian Conference did not adequately assess the dangers to Indian culture in 1961, nor could the Conference foresee new forces which would appear on the Indian scene in the '60s and '70s; forces which would adversely affect Indian cultural survival.

Some 50% of all American Indians now live in cities, and the majority of this present-day population are young people who were born and raised in the city. Many of them seem to me very much like other urban young people of a similar class level. Indians of the inner-city do associate a lot with other Indians and visit or spend long periods at "home." However, those Indians who live in mixed ethnic working class areas, at least 50% of city Indians, seem to me to be in the process of social absorption.

Some observers feel that urban Indians will, because of the heightened consciousness which develops from a city experience, spark off a cultural revival which will revitalize Indians as a whole. However, such efforts are yet in their infancy. More, Indians have as yet no intellectual "class" which could conceptualize and define such a movement.

Rural Indian communities, both those on and off reservations, vary considerably at present. On some reservations, most adults between 25 and 50 are away working in the city, leaving behind older people, children, and very young adults. Such communities may well be in the process of social absorption. Other Indian communities are more socially whole. But most evidence serious social ills - alcoholism, juvenile crime, etc.; plus, deteriorating health. And most importantly, nearly all tribes are showing considerable cultural and language loss.

It is my impression that most rural Indians under 40 are very different from those over 40 - more materialistic, more interested in acquiring social rank among both Indians and whites, more individuated and thus less committed to home and kin, more secular, more "impolite" (by Indian standards), etc. More, few Indians under 40 see themselves as members of distinct, unique, autonomous peoples who are surrounded by a more numerous and powerful society. They see themselves simply as an American variant with a special heritage. After two and one-half decades of integrated schools, head start programs, a high educational level, TV, and social welfare programs (low-

cost housing, A.D.C., etc.) which have weakened the Indian family it is no surprise that these above changes have come about; nor that the vast majority of rural Indians under 40 are not teaching their children an Indian language.

Many tribes have no native curers, medicine men, at all now. In other tribes, young and middle-aged people are not becoming curers. The same is true of ceremonial leaders, as well. Indian religions in most tribes will disappear when Indians who are over 40 die off, if present trends continue. A key factor in this cultural endangerment is language loss. Language loss has been massive in the last ten years - western Sioux, Cherokee, Oklahoma Choctaw, most Apache tribes, Navajo, Pima, Ute, etc. Tribes in which the native language is strong can be literally counted on one's fingers today. Perhaps, some very gross features of a tribal people's world view and perceptions can be transferred to English, but by and large the disappearance of a language means a major alteration in such a world view. More, it means in modern circumstances that such a people have surrendered their intellectual autonomy and independence to another society.

In many English speaking Indian communities there is a significant disparity between verbalized values and actual behavior. Parents in such communities will say such things as, their children should "get an education and make something of them selves." Yet, when their children leave home for "better opportunities," these same parents will be shocked and hurt to the core of their being. It appears that such people have learned their behavior and unconscious values from their parents, but verbalize their life in terms of public school slogans.

At minimum, language loss means that tribal people do not have an appropriate conceptual vehicle by which to examine, analyze, and talk about their own life.

In some sense, Indian tribes are becoming collections of generalized tribal personalities without a truly native institutional structure or a coherent culture, tradition and language.

Perhaps, Indians could survive profound cultural loss, all other factors being equal, and continue as social groups if Indian tribes were not tiny minority peoples in a sea of powerful aliens. However, all of those minority peoples in the Old World who have survived in such circumstances have four features in common -

1. a distinct language, even if it simply functions as a holy language.

2. a unique religion, even if it is their own special version of a world religion.

3. a tie to a particular piece of land, a homeland and a holy land.

4. a sacred history which tells you who you are and why you must survive as a people.

Few Indian tribes show these four features, modernly.

Thus, it is my opinion that unless some revolutionary steps are taken, Indian tribes will survive neither as distinct cultural nor social groups; revolutionary steps such as the development of Indian language school texts, the teaching of course content in Indian languages in local Indian schools, the revival of Indian religions, reform of the structure of tribal governments, and so on.

I think that we have five years before the die is cast and it will be too late to take the needed steps to insure our cultural and social survival.

ENGLISH IN THE CHICAGO INDIAN COMMUNITY

A Contribution by NAES College/Chicago Site Core
Seminar: Dynamics of Language and Learning
Terry Straus, Instructor

English fluency among American Indians is relatively recent. In 1928, the Meriam Report made clear that English was not established even as a second language at that time. This was true in spite of considerable contact with English speakers in preceding decades and in spite of the concentrated programs of English language instruction in federal boarding schools. Today, English is an established language option in reservation as well as urban Indian communities; but still today, the older people in those communities speak English only as a second language and sometimes not at all. In general, English does not occur as a first language for Indians born before World War II, and for those, it was often learned simultaneously with a tribal language.

The English spoken by Indians throughout Indian country today is by no means unitary. Standard American English is only one of the many varieties of English spoken by Indians: the varieties of non-standard English spoken are many and each unique. Recently, William Leap (1985) has made abundantly and convincingly clear that at least some varieties of Indian English are related to the ancestral languages of the communities in which they are spoken. Hence for example, Cheyenne, Ute, and Isleta English are rule-governed dialects of English, systematically different from each other and demonstrably influenced by grammatical and phonological patterns of the ancestral languages. The influence of ancestral language patterns on Indian English, when it occurs, occurs for speakers who do not know the ancestral language as well as for those who do.

More than half the Indian population of the country today resides intertribally in urban areas. Indians living in cities retain tribal affiliation and identity. "Home" is still the reservation and most return to it often. Many come to the city speaking a native language which they will use with other tribal members. English, of course is used with Indians from other tribes and with non-Indians.

In the Chicago area, there is a fluctuating population of at least 16,500 Indians, some of whom have been born and raised in the city, others of whom have been here 40 or 50 years although they were born elsewhere. After 1952, relocation brought a large number of Indians to Chicago, and

in 1955 the American Indian Center, the first urban Indian center in the country, was opened to help those coming in to find jobs and places to live. Today, there are seventeen Indian organizations serving the Chicago Indian community and participating in a yearly Chicago American Indian Community Organization Conference from which emerged a Community Board Training Project and an Information and Assistance Center. What was, as recently as 30 years ago, a collection of Indian People living in Chicago, has recently emerged as an Indian Community conscious of itself, whose members identify as such and distinguish themselves from other communities in the city.

The emergence of a Chicago Indian community introduces an interesting and novel language situation for American Indians. Tribal languages are brought to the city and sometimes used here. Varieties of English - tribal, regional, and standard - are brought to the city and are retained, supported by communication with others in the city who share the same dialect and also by visits "home". But new patterns of speech are learned here as well, patterns appropriate specifically to the Chicago Indian community. Life histories of community members commonly reflect the individual's awareness of the need to develop new speech patterns used in the Chicago Indian community and, equally, the need to avoid those patterns upon returning home.

Identification of certain speech patterns in Chicago Indian English was undertaken as a brief research project by students in a core seminar at NAES (Native American Educational Services) College. Research was carried on during October and November, 1985. All students were Indians residing in Chicago, and all were newly introduced to the concept of Indian English(es) either in that core seminar or through the Bilingual Education Program in which they participated at NAES College.

Hypotheses:

Hypotheses concerning English spoken in the Chicago Indian community were generated over the course of several weeks. Those suggested here are not to be understood as demonstrated truths. The research period was too short to permit any such absolute conclusions. However, what began as casual observation became, through interview, directed observation, and life history collection, strong hypotheses warranting serious consideration.

Hypotheses generated covered a variety of areas: vocalization, vocabulary, phonology and grammar, speech norms (style), speech genres, paralinguistic features, and writing. While several hypotheses were developed in each of these areas, the most fertile area was that of speech norms. It included several items which were first recognized by researchers in Chicago English but which were, upon reconsidera-

tion, determined to apply to Indian English outside of Chicago as well, differentiating Indians from other speakers of English in Chicago but not from other Indian speakers of English outside of Chicago.

Perhaps the most obvious characteristic recognized as distinguishing Indian English from other varieties of English spoken in Chicago is the amount and the type of vocalization involved in the speech. Vocalizations common in reservation varieties of English seem to be retained in Chicago speech. There is some diffusion of vocal expressions among tribes in Chicago and some reduction in sexual dimorphism in those expressions. Indians in Chicago vocalize more often and differently from non-Indians. Vocalizations are used as interjections which punctuate ("he-eh") or function to encourage and continue a conversation ("e-yah"). The non-Indian "un-huh" and "yea" which may function in similar ways in continuing conversation, are sometimes interpreted by Indians as markers of impatience, meaning "hurry up, finish; I already know what you're saying."

Vocalizations were seen clearly to distinguish Indians from non-Indians speaking English, and certain specific vocabulary items were seen to distinguish those involved in the Indian community from those outside it. Specifically, these items refer to Indian organizations and activities in Chicago. Examples of such vocabulary items are acronyms such as NAES, NAC, INAD, AIEDA, which are spoken as words, while others like "Black Elk", "The Drop-In", "The Center" use titles rather than acronyms. Such vocabulary items, of course, reflect the environment and will change with it. They remain, however, as a kind of marker of community identity.

Phonological and grammatical characterizations of Chicago Indian English are suggested in the list of hypotheses, but are not considered to be specific to Chicago. Phonology and grammar of Indians in Chicago continues to reflect the great variety of tribal and regional characteristics brought into the city.

One grammatical feature which may be associated with the mid-west region and certainly is distinguished from Indian English in the Southwest is the preference for action verbs over verbs of being. Specifically, Chicago Indians are observed to say "There goes X" instead of "There is X." This may be more common among younger people, but has also been observed in adult members of the community. One researcher reported recognizing it first with her own children and their cousins, and later observing it in "almost all Chicago Indian youth" with whom she had contact. Another researcher, recognizing it in his own speech, reported being teased about it by Indians from other parts of the country.

Another hypothesis referred to the use and semantic significance of the future tense in Chicago versus reservation Indian English. In Indian English, the future tense generally indicates a possibility, something which hasn't happened and might possibly happen, as opposed to the standard English usage in which future tense indicates a firm commitment, a plan for future action, and suggests a level of control over the future unfamiliar in Indian cultures. The meaning of the future tense in English spoken by Indians reflects the use of that tense in tribal languages across the country. In Chicago, it seems, there may be some semantic shift such that the future tense becomes more declarative than conditional, perhaps in light of misunderstandings generated in the context of city life.

Since tense/time is a requisite grammatical distinction in every utterance in English, this particular semantic discrepancy is a potent source of confusion and misunderstanding. Such semantic "interference", however, is more common than has been recognized between Indian and other varieties of (including standard) English. Misunderstandings occur but are often not even recognized since, after all, both codes are English. The key to resolving such confusion, both between individuals and within one individual who is multilingual (speaking a native language, perhaps, and one or more varieties of English, including standard American English) seems to be to become aware of the sociolinguistic context and implications of the terms and forms of the various codes.

The meaning of a particular utterance, of course, is also measured against the norms for appropriate speech in the community in question. Perhaps the clearest example of speech norms specific to Chicago Indian English concerns what researchers referred to as "courtesy words". In general, researchers observed that Indians in Chicago tried to avoid saying a direct "no", that is, refusing a request or denying the truth of another's statement. While this was thought to be common to all Indians, there was some feeling that this norm of courtesy/respect might be more pronounced in the inter-tribal context of city life. Misunderstandings in this regard between Indians and non-Indians were also noted.

Participants from various tribes and various parts of the country found the need to use courtesy words in Chicago whereas the same usage on the reservation would label them as outsiders or imposters, putting on airs. "Please," "Thank you" and "Excuse me" were specifically noted in this regard, and interviews with other Chicago Indians confirmed this. In Chicago, with non-Indians, but also among Indians, a speaker is considered rude or crude if he/she does not make liberal use of these courtesy words. Whereas, on the reservation one might say to another, "Move," or "Give me your pen," or whatever, and be completely appropriate and expectable; in Chicago, such sentences are interpreted as presumptuous

commands reflecting poorly upon the character of the speaker.

So strong is this shift in speech that it has in turn influenced at least one tribal language spoken in Chicago, encouraging the development of tribal courtesy terms. Choctaw spoken in Chicago has certain courtesy terms whereas these terms are not used in the same way in the reservation context. A phrase "Yak-Oki" is used in Chicago as a kind of all-purpose courtesy term: its reservation meaning is something like "So be it."

Another way in which courtesy patterns are clearly different in Chicago concern introductions. In many cases, introductions are inappropriate in the reservation context, whether in English or in a tribal language, perhaps because by pointing out the person who is not known it distinguishes him in a way which is uncomfortable and unwelcoming. In Chicago, however, introductions are understood as common courtesy in both large and small groups. Meetings commonly begin with introductions, each individual identifying himself at least by name.

An Indian being introduced to other Indians, formally or informally, will identify himself or be identified by tribal affiliation and residence, "Chippewa from Leech lake", for example, or "Winnebago from Nebraska." This information is regarded as establishing common ground between the people being introduced, and often leads to questions concerning relatives or friends on the reservation known to the other person/s. Name, tribe (where relevant) and family relations would all be data that would emerge in the course of conversation or successive meetings in the reservation context, while they seem to be prerequisite to comfortable conversation in Chicago.

Among Indians, regardless of age or status, the preference in the community is clearly for use of first name in address. Non-Indians, however, are generally addressed by title and last name, though that may shift to first name with decreased social distance. Children in the community are sensitive to this difference. Elementary school students tutored by an Indian adult will address the tutor by title and last name in the classroom or hallway where non-Indians are or might be present, but address the same person by first name only when alone with them in or out of school.

Other terms found in the English spoken in the Chicago Indian community but not so commonly in the English spoken on home reservations are terms of endearment such as "dear", "honey", "sweetie" etc. One woman emphasized this in a story about her young daughter who grew up on the reservation with her grandparents. Addressed by her mother as "Honey", she responded, "I'm not Honey, I'm Sarah!"

Appropriate speech on the reservation, moreover, seems to be softer than speech in the city where loud voice and assertiveness seem to be associated. In observations at the Senior Citizens Center, researchers also concluded that women tend to speak more softly than men. Public speaking in general, however, requires a louder voice, and prayer, a softer one.

While certain norms of courtesy or appropriate behavior are added in Chicago, norms of courtesy and respect typical of reservation English may be dropped in the city. Verbal avoidance/taboos are one such example noted by participants in this study. Whereas a man might be required to respect by avoiding and not addressing his mother-in-law, or a woman her father-in-law, such avoidance is rarely seen in Chicago. Similarly, where use of a personal name may be carefully avoided in reservation speech, such avoidance is commonly dropped in Chicago.

Indirect investigation of public speaking included listening to tapes of meetings for various purposes within the Chicago Indian community. Researchers discussed the problem of understanding what was going on without the non-verbal paralinguistic features unrecorded on the tape. It was presumed that non-verbal communication among Indians differed from non-verbal communication among non-Indians. In this context, the use of lip-pointing was noted and became a source of continual comment and amusement within the research group. No systematic observations were made of paralinguistic features, however.

Patterns noted in public speaking from the community tapes included persistent consensus checks throughout the presentation or the moderated discussion. Listeners might volunteer indications of consensus by vocalization or non-verbal communication, but a speaker may ask for an expression of opinion from one who does not volunteer support. Group presentations thus seem to involve a greater audience responsibility than is the norm in non-Indian context.

Listener involvement is also implied in the particular style of speech making, which may include a whole series of phrases as the subject of a long statement. The listener must work to relate the various parts of the subject to each other so that, ultimately, they connect to the verb which follows. If the listener does not put his own mind to work he will not understand what the speaker is saying.

A study comparing oral debate of Indian and non-Indian students at the University of Oklahoma (SWALLOW, Vol. VIII, 1980, Arizona State University) suggested that there may be a rhetorical style common to Indian students and different from that of non-Indians. Some of the characteristics noted in that study have been observed as well in the written composi-

tions of Indian students in Chicago. Research in progress by a NAES instructor in Chicago demonstrates clearly that Indian college students here, regardless of how long they have been here and whether or not they speak a tribal language, are "oral writers." This obtains in spite of the special anxiety described by the NAES student research group as associated with written expression. Something written, it seems, is presumed to require standard (and perfect) English. Thus, written work is commonly strained and stressful in a way that oral response may not be.

Student researchers did make an effort to compare tribal newspapers with publications (The Warrior, The Red Letter, NAES Rule, and InterCom) of the Chicago Indian community. They concluded, however, that there was a great variety in the Chicago publications, each having its own distinct purpose, such that an overall comparison was difficult. Certain Chicago publications were similar to the Menominee tribal newspaper, for example, in that they contained a great number of quotations, an emphasis on narrative, and a prominent vocabulary of enthusiasm and accolade. Other Chicago publications differed considerably, being more moderate, more descriptive, and with fewer direct quotations from individuals.

Public speaking is a recognized genre in Chicago and certain normative expectations adhere to it. Other recognized genres include prayer, storytelling, joking, and gossip, each of which is governed by particular rules of appropriateness and particular patterns of speech. Gossip was considered at length by two members of the research group.

While it is considered inappropriate to ask or at least to persist in asking personal questions, personal information circulates continuously as gossip, sometimes founded, sometimes not. Gossip has become an issue of considerable concern and debate in the Chicago Indian community. A decade ago, its insidious effects were of such concern that a community workshop on gossip and rumor was held in an effort to contain and reduce it. Personal gossip within the Chicago Indian community tends to spread first along family lines and almost invariably involves family support. There are some differences in the way men and women gossip. Despite these observations, gossip is still thought to be most strongly associated with women and women's speech. It is often marked by clear linguistic tags such as "Did you know", "Did you hear?" or "Don't tell anyone, but.." and it is generally spoken in a lower than normal tone and volume.

The use of "swear words" is a speech pattern with no tribal precedent. Researchers reported a relatively greater use of "swear words" in Chicago than on reservations. Some described "tough talk" or "bar talk" as a speech genre characterized by a liberal use of swear words. It is clear, however, that the same speaker in some other context might not

use any swear words at all. It also appears that there is a general valuation of swearing as uneducated and thus a considerable surprise at educated whites who swear in public presentations and in classroom teaching. Speech standards of high status in the Indian community do not allow for swearing.

Other speech genres could be studied in terms of their social distribution and cultural content. Are there Chicago Indian jokes which are different from other "Indian jokes", for example. Are public prayers different in the urban setting than at an intertribal reservation gathering?

It does seem that there are Indian songs, or at least a style of singing Indian songs particular to Chicago. This has not been adequately investigated, but derives from an interview with the leader of one Chicago drum group. Defining that style and describing its development would be an interesting project for future research.

Conclusion:

It is reasonable to expect that, with the development of Indian communities in urban areas, new patterns of speech will develop associated with those communities as speech communities. This paper represents the first effort to identify speech patterns distinctive of such a community, and as such it is of historical as well as theoretical interest.

As a speech community, the Chicago Indian community is complex and varied. There is, initially, the tribal and regional mix brought into the community and continuously revitalized due to movement both into and out of the community from reservations, reserves, and settlements. There is as well the variety due to differences of age and status within the community. Young people in the community commonly speak English quite differently from their parents and grandparents. This is as true in Chicago as it is on any reservation; the experiences of the young people differ and so does their speech. The importance of education as a symbol of status and its association with particular speech norms has been mentioned above. Place of employment is another social factor distinguishing units within the community, and thus very likely associated with particular speech patterns. Internal community liaison people must be able to move comfortably among those various organizations and also be fluent in the variety of speech patterns encompassed by them, at least to the point of avoiding misunderstandings between them.

There is a tremendous variety of speech and fluency evident in the Chicago Indian community, but certain norms, certain new norms appear to be shared throughout and in some cases to be distinctive of the community as a speech community

and as a cohesive unit, conscious of and interested in maintaining its unique identity.

In part, the norms observed in Chicago Indian English can be seen to reflect the social context of city life, especially the presence of many (more than 50) tribes and as many dialects and tribal language roots, and the situation of continual contact with non-Indians and their associated speech patterns. Changes in expression and definition of courtesy, in the style and content of personal introductions, in the semantic intent of the future tense, for example, may be viewed as accommodations, changes deriving from the special situations of Indians in an urban community.

But this flexibility in speech does not represent language loss. Indians in Chicago return frequently to home reservations and reservation dialects of English. There may be a brief initial period of "mistakes," but such "mistakes" are quickly recognized and avoided. Instead of language loss what seems to occur is multilingualism, including several varieties of English and perhaps a tribal language as well. Respect for ancestral language and for those who are fluent in their ancestral language is very high within the Chicago community. In fact, there seems to be a kind of third generation phenomenon where children born and raised in the city have learned a deep respect for tribal language and traditions and seek to return to home reservations to hear and to learn their own ancestral languages.

The development of a Chicago Indian community and associated patterns of speech, then, does not necessarily contribute to the language loss so dramatically described by Thomas. It does suggest that speech patterns may be shared across a wide variety of dialects and be associated with community identity across but not conflicting with a wide variety of tribal and regional affiliations.

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INDIAN EDUCATION IN THE STATE OF MINNESOTA
A Model of State/Tribal Government Cooperation

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Among the states, Minnesota represents a model of cooperation with American Indian Tribes and the Federal government in the provision of educational services for American Indians. The intergovernmental cooperation in Indian education in the state has been sustained and enabled through the development of a distinct and unique responsibility on the part of the state to enable American Indians to have access to educational opportunities. The state's program in Indian education currently includes a number of grant programs and services related to Indian education which provide state appropriations for Indian post-secondary scholarship assistance, and school based programs designed to improve the educational environment in which Indian children find themselves and to improve the effectiveness of schools in educating American Indian learners.

Historically, among the most significant roles of the state of Minnesota in Indian education has been the role of public education in enabling American Indians to have access to schooling. In a 1952 report of the Governor's Interracial Commission, The Indian in Minnesota, it was reported that twenty American Indians were attending colleges and universities within the state. Though the number of Indians attending post-secondary institutions in the state may have seemed small, it is interesting to note that significant involvement of Minnesota Indian youth in any form of formal schooling occurred only thirty years prior to 1952. Until the mid-1920s only 30% of the total Indian school age population were attending school, primarily federal government or mission schools.

Most school age Indians in Minnesota did not begin to go to school until the mid-1920s when state public schools became a viable option. With the implementation of the land allotment policy on many Chippewa reservations well underway in the early 1900s and the significant immigration and settlement of non-Indians on northern reservations, the Minnesota State Legislature in 1910 passed an act for the maintenance of public schools on Indian reservations or on territory previously occupied as such. In 1925 the United States Congress appropriated $10,000 for the construction and maintenance of public schools in Minnesota "to be located in places contiguous to Indian children who are now without proper public school facilities" and $35,000 for tuition

payments to the State of Minnesota for Indian public education.

Following 1922, with some increases in federal government boarding school enrollment during the depression years, all increases in school age Indian population were absorbed by public school enrollments. Indeed, by 1928, of a total Minnesota Indian school age population of approximately 5,000, all but 200 were enrolled in some form of schooling.

The pattern of state management of Indian education and specified federal fiscal responsibility which developed throughout the 1900s became formalized in 1934 with the passage of the Johnson-O'Malley Act by the U.S. Congress. The JOM contract through which the state of Minnesota agreed to provide educational services for Indians under certain specific conditions was signed by Governor Floyd B. Olson on July 11, 1936. Though the specific purpose for which appropriations were authorized under JOM has changed and state administration of the program has now shifted to Tribal governments, the special conditions upon which the federal government transferred responsibility for the provision of education services for Indians to the state has remained the cornerstone of Minnesota's efforts in Indian education. It has also served as the foundation upon which state, federal and tribal cooperation in Indian education has evolved and developed within Minnesota.

Outside of providing educational services for American Indians, the state agreed through the JOM contract to provide specialized courses of study in distinctly Indian communities, and to provide educational programs designed to meet the special needs of Indians developed and implemented only "after consultation with recognized representatives of Indians." The Minnesota State Board of Education was designated to serve as the "agent of the state" in discharging the obligations assumed by the state in Indian education. The state agreed to secure the regular attendance of Indian pupils, that no Indian child be disbarred from any schools by reason of race and personal condition, etc., in accordance with state law as applied to citizens of other races, and that educational standards relating to teachers' textbooks, library, etc., be not lower than the highest maintained by the state. The federal government provided to the state revenue in lieu of the tax exempt status of Indian lands, a purpose now served by Federal Impact Aid and, among other things, provided for the use and transfer of federal school property for public education purposes.

Programs designated to meet special needs and enable access to educational opportunities, Indian consultation and representation and the leadership of the Minnesota State Board of Education currently define the state's efforts in Indian education.

Special Needs and Access to Education Opportunity

The state program in Indian education currently includes the American Indian Language and Culture Program. The program passed by the state legislature in 1976 was developed in recognition of the need for more adequate education for American Indian pupils in the state of Minnesota. The program seeks to make curriculum more relevant to the needs, interests, and cultural heritage of American Indian pupils, to provide positive reinforcement of the self-image of American Indian pupils, and to develop intercultural awareness among pupils, parents and staff. The program provides state revenue for projects broadly related to improving the quality of educational services to American Indian children enrolled in elementary and secondary schools. Projects may include instruction in American Indian language and culture, improving the nature and quality of teaching, the provision of personal and vocational counseling and the modification of curriculum instruction methods and administrative procedures to meet the needs of American Indian pupils. Interestingly consistent with the original Johnson O'Malley contract regarding the special needs of American Indian students, the preamble to the American Indian Language and Culture Act asserts that in order for American Indians to have equal educational opportunity, Indian students must have their language and culture represented in schools' curriculum.

The American Indian Post Secondary Preparation Program provides grants to school districts for American Indian students in grades 7-12 for projects which broadly seek to enable and facilitate the enrollment and successful attendance of American Indian students in Minnesota post-secondary educational institutions. Project activities can include dropout prevention activities, remedial and tutorial service, incentives for improved attendance, career counseling, etc.

The Minnesota Indian Scholarship Program provides financial assistance to American Indians who are residents of the state, who are accepted for enrollment in post-secondary institutions. The program is "need based" and provides assistance to American Indian students who have financial need after other sources of aid are applied to the student's cost of education. The Indian Education Section maintains a field office in Bemidji to implement this program and to coordinate the state's program with (primarily) the Tribal scholarship programs of the Minnesota Chippewa and the Red Lake Band of Chippewa Indians.

Indian Consultation and Representation

The State's Indian education grant programs are implemented through a unique structure of Indian representation and consultation. The Indian Post-Secondary Preparation Program

and the Indian Scholarship program are implemented by the Minnesota State Board of Education with the assistance of the Minnesota Indian Scholarship Committee. The committee, which has existed since 1955, was uniquely established as a committee by statute in the 1985 legislature. The American Indian Language and Culture Program is similarly implemented by the State Board with the advice of the American Indian Language and Culture Task Force. Both groups, which are broadly representative of the American Indian populations in the state, are appointed by the State Board with the advice of the Minnesota Indian Affairs Council. This council which is composed of elected tribal chairmen in the state is charged by state statute to, among other things, advise the legislature and state agencies in matters related to Indian Affairs.

The Indian education advisory groups recommend to the State Board criteria for the implementation of the state Indian education grant programs and in the case of the school based grant program review and recommend proposals for funding to the State Board. The state school-based grant programs further require Indian parent and community involvement in the development and implementation of the program.

Central to the structure of Indian representation and consultation which is the focus of cooperation between tribal governments and the State of Minnesota is the Minnesota Affairs Council. This council began as the Indian Affairs Council in 1983 to reflect the standardization of membership, to include duly elected chairmen of American Indian Tribes within Minnesota and an elected representative of Indians enrolled in tribes outside of Minnesota. Included within the primary duties of this state agency are the following duties:

Clarify for the legislature and state agencies the nature of tribal governments and the relationship of tribal governments to the Indian people of Minnesota.

Make recommendation to members of the legislature on desired and needed legislation for the benefit of the statewide Indian community and communicate to the members of the legislature when legislation has or will have an adverse effect on the statewide Indian community.

Provide, through the elected apparatus of the council, an effective conduit for programs, proposals, and projects to the legislature submitted by tribal governments, organizations committees, groups, or individuals.

Provide a continuing dialog with members of the appropriate tribal governments in order to improve their knowledge of the legislative process, state agencies, and governmental due process.

Assist in establishing Indian advisory councils in cooperation with state agencies delivering services to the Indian community.

Assist state agencies in defining what groups, organizations, committees, councils, or individuals are eligible for delivery of their respective services.

Assist in providing resources, tribal and other, in the delivery of services to the statewide Indian community.

Act as a liaison between local, state and national units of government in the delivery of services to the Indian population of Minnesota.

Assist state agencies in the implementation and updating of studies of services delivered to the Indian community.

Provide, for the benefit of all levels of state government, a continuing liaison between those governmental bodies and duly elected tribal governments and officials.

Interreact with private organizations involved with Indian concerns in the development and implementation of programs designed to assist Indian people insofar as they affect state agencies and departments.

Act as an intermediary when requested and if necessary between Indian interests and state agencies and departments when questions, problems or conflicts exist or arise.

Leadership Role of the State Board of Education

Under the direction of the Minnesota State Board of Education, the state has been involved in a significant sustained effort to determine the educational needs of its Indian citizens and has initiated as one of the Board's goals a process to develop a comprehensive plan for the significant improvement in the public education of American Indians.

The current effort on the part of the Minnesota State Board of Education to identify and focus on Indian education as a priority issue and to develop a comprehensive plan for Indian education proceeds from the adoption of an Indian Education Policy Statement by the Minnesota State Board on February 9, 1982. The statement "supports and encourages:

1. Programs and services to meet the unique education needs of Indian youth and adults;

2. The involvement of tribes, communities, youth and parents in the total education program;

3. Incorporation of American Indian language, literature and heritage into the general curricula;

4. The concept of equal educational opportunity; and

5. Viable programs which will permit Indian people to compete and excel in areas of their choice."

The Indian education policy statement, which was developed by a task force which is broadly representative of the state's American Indian population, represented the culmination of a fact-finding process initiated by the State Board in 1976 with statewide hearings on Indian education. Under direction of the State Board and in cooperation with tribal governments and Indian communities, the state has been involved in a significant sustained effort to determine the educational needs of its Indian citizens. In 1976, the Board conducted statewide hearings concerning Indian education which were continued in 1983 with community hearings at Red Lake, Cass Lake, and Fond du Lac. During 1985, information gathered from these hearings and other forms of testimony was developed into a survey to prioritize various needs and recommendations concerning Indian education. The prioritization of Indian education needs was seen as a way to provide in part a foundation for the development of a plan for the improvement of Indian education.

A framework for the development of a comprehensive statewide plan was proposed to include three areas of ideas and initiatives. The first area of planning involved building upon a foundation already laid in Indian education in Minnesota. As a state, Minnesota has developed a distinct responsibility for Indian education. Current efforts are nonetheless recent and have only just begun to have an impact. For example, 70% of all American Indian graduates assisted by the Minnesota Indian Scholarship Program have graduated within the last 10 years. The American Indian Language and Culture Education Program is in its tenth year and the Indian Post-Secondary Preparation Program is now in its third year.

The second area involved innovative cooperative ideas between the state, federal and tribal governments and new initiatives for implementation by the state, federal or tribal governments. Because of the unique political/legal status of tribal government and the special charter of the relationship of the federal, tribal and state governments in the provision of educational services to American Indians, significant ideas for the improvement of Indian education must consider the character of intergovernmental relations and distinct initiatives by tribal, federal and/or state governments.

The third area sought ideas and initiatives which would affect and impact on public education generally. The education situation and status of American Indians raises significant questions regarding the viability of existing structures and systems of education to be effective with children. Generally, it is felt that ideas for reforming education systems should include a view of the education of American Indians in Minnesota.

The plan for the improvement of Indian education proposes a number of ideas which are interrelated and which are at various stages of development, consideration, and sanctioning by the various groups formally responsible to act upon the ideas presented. A very important function of the plan is to identify an agenda and forums necessary to consider and act upon ideas for the improvement of Indian education.

POSITION PAPER ON TRIBAL GOVERNMENT

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Introduction

In simplistic terms, the structure of Indian governments before the invasion of North America by Europeans consisted of chiefs and elders representing kin groups; in the southern tribes, this body was a formal priesthood as well. The band or the village was the locus of the most important decisions. Political decisions were of two kinds. One were those decisions prescribed by tradition. Chiefs and elders "reminded" the people of those traditional prescriptions, usually in public assembly, and then supervised the carrying out of the appropriate action. Two, where traditions were not explicit, decisions were made by an open assembly. The chiefs and elders acted to help achieve unanimity. If a minority felt strongly about their position the issue was put aside, or else the minority withdrew and formed another social body. Warfare was not usually a political decision, in the above sense; and was most times carried out by an individual war leader and his followers. The exception was when the whole tribe committed itself to the tribal assembly, as they did when making peace with an enemy people.

Great care was taken in aboriginal Indian government to protect the wishes, autonomy, dignity, and integrity of each individual. This type of government was admirably suited to small kin-communities. (And, of course, Indian tribes are yet based on small kin-communities.)

In the early 1800s several tribes undertook to reform their original governments and finally to adopt a republican form of government modeled after that of the United States. The motivation behind such a move was to centralize the tribal government and so curtail the power of local chiefs, many of whom were busily signing away lands to the U.S.; to better deal with the social chaos prevalent in their tribes; and to have a formal, stable institutional structure. However, this was not accomplished overnight. The Cherokee tribe took over thirty years to complete this reform. For instance, some six successive legislative acts were needed to modify and finally abolish the principle of clan revenge. But no Cherokees imagined that this legal reform did away with the sentiment involved in clan revenge so extra-legal procedures grew up to handle this sentiment - no one belonging to the clan of the victim or the accused could sit on a jury in a murder trial, the relatives of the victim had the option of forming the firing squad which executed the convicted murderer, and so on.

This process of reform and the adaptations around reform went on for some 30 years, at which time the Cherokees adopted a constitution; simply codifying reforms already in practice, as is the case with most constitutions (including the American constitution!!!).

1. The Problem of Legitimacy and Cultural Fit

Now, let me contrast the above process with that which went on in the 1930s at the time modern tribal governments arose. To begin with, by 1930 most tribes had lived on reservations for several generations under the absolute control of the B.I.A. Most of their native institutions had decayed and disappeared - military, police, educational, economic, etc. Government usually consisted of the local agent assembling the chiefs or a hand-picked committee and instructing them in what he had decided. Now comes "democracy", usually in the form of the Indian Reorganization Act, to Indian reservations in the 1930s. Indians on most reservations did not react positively. Since the I.R.A. was now "policy" from Washington, the local agents on many reservations simply "rammed" it down the tribe's throat in spite of opposition by the chiefs and a majority of the tribe. A small minority of voters adopted the I.R.A. on most reservations. The majority was either apathetic or, in most cases, actively disapproved by not participating in the matter at all. (Boycott by Indians was a positive political action by all tribes in early times.)

Shortly after the adoption of the I.R.A. by a tribe the B.I.A. wheeled in a standard, bare-bones, Anglo style constitution (along with the same style legal code) which was once again adopted by a small minority voting in most tribes. Many tribes are still stuck with these embarrassingly inadequate documents which were simply dropped into their midst in the 1930s.

Thus, modern tribal governments did not have the sanction of chiefs or the Indian majority. That problem of legitimacy remains. It is less severe in tribes like Papago and Navajo and most severe among peoples like the Hopi and Oglala Sioux.

Further, tribes were not allowed the time to evolve and adapt a republican, representative type government. It was simply dropped on their heads. Thus, the legal mechanisms of such a government - secret ballot, individual voting, majority rule, geographic representation, etc. - remain uncongenial to most Indians; as is the preemption of the local band or village by such a structure.

The legal systems of most tribes suffer even more than is taken into account on most reservations; nor is there a conscious cultivation of Indian common law or attention to court precedents. In fact, some tribal councils see the tribal courts simply as their agents of social control only.

2. Colonialism

In the 1960s I wrote an article in which I characterized the relationship between the federal government and Indian tribes as colonial; that is to say, that outside bureaucrats of a powerful, alien society and culture controlled the lives of Indians. I have seen nothing since the 1960s which has changed my mind. The trust responsibility and the plenary power of Congress clearly establishes where the power lies. I am at a loss to understand what modern discussions of self-determination and sovereignty mean in such a legal context. I know of no political unit in the U.S other than Indian tribes which must have the majority of their decisions approved by a federal official, the Secretary of Interior, or which cannot try major crimes in their courts because of an act of congress. The control by the federal government of the "purse strings" on reservations, as well, contributes to the powerlessness of tribal governments. In fact, as late as the mid-sixties an Undersecretary of Interior stated to me that "tribal governments were never conceived of as anything but the internal arm of the Bureau within the Indian tribes." Though obscured by the growth of tribal bureaucracy in the 70s, tribal government is still fairly powerless.

In the past, most tribal governments have been able to function successfully to protect the tribe from outside exploitation, and to be a buffer against B.I.A. proposed cultural change by stalling and subverting. That tribal governments are able to perform their functions so well is a tribute to the political acumen and loyalty of Indian politicians. In fact, given the "heritage" of tribal governments, discussed in Section I of this paper, and the colonial situation, it is amazing that tribal politicians can operate as well as they do. As a whole, they do a very difficult job well.

However, even today tribal governments cannot effectively set policy and govern. And tribal politicians are rarely able to deliver on their campaign promises. But the Indian public is <u>never</u> told why this is - the limitations of outside power on tribal leaders. Therefore, there is considerable turnover in tribal government.

More, the one demand that tribal government has been unable to "field" is the pressure by the federal government for economic planning. For quite a number of years tribal government has been involved in economic development. Most of this development has been pointed toward an increase in <u>individual</u> income, on the advice of government employees and academics from the local "Jerkwater U". Such programs have seriously weakened the Indian family and community, as has been the case in all societies where such an approach has been tried in economic planning.

3. The New Indirect Colonialism

Since 1970 the "raw" colonialism has been obscured by the transfer of service functions from the Bureau to the states and tribal governments. In the case of transfer to the state, the state has assumed both the function and the decision-making power, but in the case of the transfer to the "tribe", the "tribe" has taken over administration, but decision-making power has remained in Washington.

However, this new "self determination" policy did allow tribal governments to create jobs for their members, even if it did mean that now Indians were taking the heat from a resentful Indian public. Many of these new Indian bureaucrats uncritically helped build tribal bureaucratic programs - welfare, housing, old age homes, etc. - which, because "help" focused on the individual, unfortunately, further weakened Indian families; as such kinds of programs have weakened family and community in the general society.

Since 1970, tribal jobs have been the motor of the economy on most Indian reservations. That economy has suffered recently because of the Reagan budget cuts. And although this new economy has not given a tribe more governmental power in relation to the federal government it has given the institution of tribal government more power over local Indians. Some Indian politicians have built political patronage machines now, and a few resemble a tin pot dictator in a banana republic. (And there is no party machinery to control such excesses.)

The change in the nature of tribal government is making it harder for tribes to stand against outside exploitation and corruption. The local demand for tribal jobs seems insatiable and an Indian politician must deliver such jobs if he or she is to stay in office. If budget cuts on the part of the federal government increase, what will tribal governments do? Propose local taxation? Sell off resources? Go out of business?

4. The Ultimate Problem

Most peoples of the world see government as a way to bring about a desired human end - social justice, or economic equality, or individual freedom, or control of our vices and the fostering of our humanity, and so on. I hear few of these things discussed by Indians, in or out of tribal government. What is the purpose of our tribal governments? What kind of relationships in our communities does tribal government help create? What kind of life in our communities do we want for our grandchildren, and how can tribal government help achieve that goal? Those are the important questions about government; not concerns with efficiency or costs.

I hear Indians say that we want to preserve our values. Are our values reflected in tribal governments? Do tribal governments not only reflect but cultivate our values? And if not, why not? I do not think that we can be satisfied with the specter of Indian police units that look and act like 1940 style German S.S squads. Do we have to model after the worst features of American society, a society in evident decay and decline? How can we take the control of our destiny into our own hands?

Right now there are sixty year old full-blood Indians moving away from reservations where they have lived their entire lives, because the quality of life there has deteriorated past the point of no return. I think we need to take that fact very seriously.

The American dream of perfecting a political democracy and a just society may have indeed been replaced by modern gross materialism. And the American founding fathers were great dreamers. They were thinkers and writers as well as politicians. At this point in history, I think that we Indians desperately need such kinds of men and women. I would suggest that those Indians involved in tribal government begin to ponder, develop, and speak and write about our dreams, to us the Indian public. (Perhaps such a course of action might even goad Indian academics into writing to their fellow Indians, as well.) We need some founding fathers in these days.

CONCLUSION

Let me conclude this evaluation of tribal government on a positive note. There are some who have concluded that Indian governments are simply puppet governments of no use to Indians except as possible mediators between us and the central government and/or as a buffer against outsiders. I do not share that attitude; primarily because I am impressed by the Indians in tribal government. As a whole, they are extremely talented and committed people. The elitists and tyrants among them are few. Their integrity is remarkable. Given conditions, there is much, much less corruption in tribal governments that one would expect. Such people could be more to us than simply needed politicians and administrators. They could be of more and greater value to us in these times. They could indeed be our real leaders and serve an important mission. That is the reason that I have suggested that they become our "founding fathers".